

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Oil and Gas

4 (Amended After Comments)

5 805 KAR 1:170. Content of the operations and reclamation plan~~[proposal; form on~~
6 ~~which the proposal is filed]~~.

7 RELATES TO: KRS 353.180, 353.510, 353.520, 353.561 – 353.564, 353.590, 353.5901,
8 353.592, 353.595, 353.597, 353.651, 353.652, 353.6601 – 353.6606, 353.730, 353.737,
9 353.991~~[353.520, 353.570, 353.590, 353.5901, 353.595, 353.597]~~

10 STATUTORY AUTHORITY: KRS 353.540, 353.550, 353.5901, 353.670

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.5901(1) requires a well opera-
12 tor to submit to the Department for Natural Resources an operations and reclamation
13 plan~~[proposal applicable to all tracts on which there has been a complete severance of the owner-~~
14 ~~ship of the oil and gas from the ownership of the surface to be disturbed]~~. This administrative
15 regulation establishes~~[specifies]~~ the content of the operations and reclamation plan~~[proposal]~~,
16 establishes~~[creates]~~ the form on which that plan~~[proposal]~~ is to be filed, and establish-
17 es~~[provides]~~ for the form on which well transfers are indicated.

18 Section 1. Definitions.~~[In addition to those set out in KRS 353.510, the following defini-~~
19 ~~tions shall apply to this administrative regulation:]~~

20 (1) "Best management practices" or "BMPs" is defined by KRS 353.510(28)~~[353.5901]~~.

21 (2) ["Cross-drain" means an open ditch, constructed across the roadway, to carry off

1 ~~road surface water and which is not intended to replace culverts or prohibit vehicular traf-~~
2 ~~fic.~~

3 ~~(3)[(2)] "Diversion ditch" means a channel or ridge constructed across a slope for di-~~
4 ~~verting surface runoff.~~

5 ~~(4)[(3)] "Filter strip" means a natural vegetative strip, left undisturbed, between the~~
6 ~~disturbed construction area and a water course, and which acts as a buffer area to catch~~
7 ~~sediment before it enters the water course.~~

8 ~~(5)[(4)]~~ "Final reclamation" means the date on which the operator has completed ~~[his]~~ drilling
9 operations at the well site, has plugged the well, and has performed all obligations described in
10 the operations and reclamation plan~~[proposal]~~.

11 ~~(3)[(6)]~~ "Wellsite boundary" means the area of disturbance by an operator, excluding access
12 roads, to drill an oil or gas well.

13 Section 2. (1) The operations and reclamation plan~~[proposal]~~ shall be filed on Operations
14 and Reclamation Plan, Form ED-10~~[-entitled "Operations and Reclamation Plan"]~~~~["Plan to~~
15 ~~Prevent Erosion of and Sedimentation from a Well Site"]~~.

16 (2) In addition to the requirements set out in KRS 353.5901, the following information shall
17 be submitted~~[set out]~~ on Form ED-10:

18 (a) The operator's and surface owner's:

19 1. Names, addresses, and telephone numbers;

20 2.~~[the]~~ County in which the well is proposed to be drilled; and

21 3.~~[and the]~~ Well number;

22 (b)1. A listing or description of fertilizers and soil amendments and ~~[approved]~~ seed mixes or
23 trees to be planted as established in the table in this subparagraph.

RECOMMENDED HERBACEOUS MIXTURES

FOR REVEGETATION

Note: A species enclosed in parenthesis may be substituted for the species to the left. Its seeding rate is enclosed in parentheses.

| <u>Species Mixture</u> | <u>Seeding Rate</u> <u>(Pounds/acre</u> <u>PLS)</u> |
|--|--|
| <u>Spring - February 15 to May 15</u> | |
| <u>1. Orchardgrass</u> | <u>10</u> |
| <u>White or Ladino clover</u> | <u>2</u> |
| <u>Red clover</u> | <u>6</u> |
| <u>2. Orchardgrass</u> | <u>10</u> |
| <u>White or Ladino clover</u> | <u>1</u> |
| <u>Red clover</u> | <u>4</u> |
| <u>Kobe lespedeza</u> | <u>10</u> |
| <u>3. Orchardgrass</u> | <u>10</u> |
| <u>Birdsfoot trefoil (Alfalfa)</u> | <u>8 (15)</u> |
| <u>Red clover</u> | <u>6</u> |
| <u>4. 31 Tall fescue</u> | <u>20</u> |
| <u>5. Wheat (Spring oats)</u> | <u>25 (32)</u> |
| <u>Switchgrass</u> | <u>10</u> |
| <u>Indiangrass</u> | <u>10</u> |

| | |
|---|--------------|
| <u>Big bluestem</u> | <u>5</u> |
| <u>Little bluestem</u> | <u>5</u> |
| <u>Birdsfoot trefoil</u> | <u>6</u> |
| <u>Except for mixture 5, add one (1) of the following quick cover species to the selected permanent spring seeding mixture:</u> | |
| <u>Wheat (before April 15)</u> | <u>30</u> |
| <u>Spring oats (before April 15)</u> | <u>32</u> |
| <u>Balbo rye (before April 15)</u> | <u>30</u> |
| <u>Perennial ryegrass</u> | <u>10</u> |
| <u>Annual ryegrass</u> | <u>5</u> |
| <u>Weeping lovegrass (after April 1)</u> | <u>2</u> |
| <u>Summer - May 15 to August 1</u> | |
| <u>Orchardgrass</u> | <u>10</u> |
| <u>Kobe lespedeza</u> | <u>15</u> |
| <u>Red clover</u> | <u>4</u> |
| <u>White clover (Birdsfoot trefoil)</u> | <u>1 (6)</u> |
| <u>Alfalfa</u> | <u>12</u> |
| <u>Add one (1) of the following quick cover species to the permanent summer seeding mixture:</u> | |
| <u>Sorghum</u> | <u>20</u> |
| <u>Foxtail (German) millet</u> | <u>12</u> |

| | |
|---|---------------|
| <u>Japanese millet</u> | <u>15</u> |
| <u>Soybeans</u> | <u>40</u> |
| <u>Cowpeas</u> | <u>40</u> |
| <u>Pearl millet</u> | <u>10</u> |
| <u>31 Tall fescue</u> | <u>20</u> |
| <u>Fall - August 1 to October 1</u> | |
| <u>1. Orchardgrass</u> | <u>10</u> |
| <u>White or Ladino clover</u> | <u>2</u> |
| <u>Red clover</u> | <u>6</u> |
| <u>2. Orchardgrass</u> | <u>10</u> |
| <u>Alfalfa (Birdsfoot trefoil)</u> | <u>15 (8)</u> |
| <u>Red clover</u> | <u>6</u> |
| <u>3. 31 Tall fescue</u> | <u>20</u> |
| <u>4. Deertongue</u> | <u>12</u> |
| <u>Birdsfoot trefoil</u> | <u>8</u> |
| <u>Red clover</u> | <u>6</u> |
| <u>Add one (1) of the following quick cover species to the selected permanent fall seeding mixture:</u> | |
| <u>Winter wheat</u> | <u>30</u> |
| <u>Balbo rye or Winter rye</u> | <u>30</u> |
| <u>Winter oats</u> | <u>32</u> |
| <u>Perennial ryegrass</u> | <u>10</u> |

| | |
|--|----------------|
| <u>Annual ryegrass</u> | <u>5</u> |
| <u>Mixtures for Wet or Poorly Drained Areas and Pond Borders</u> | |
| <u>Spring - February 15 to May 15</u> | |
| <u>Japanese millet</u> | <u>10</u> |
| <u>Redtop (Reed canarygrass)</u> | <u>3 (15)</u> |
| <u>Alsike clover</u> | <u>4</u> |
| <u>31 Tall fescue</u> | <u>20</u> |
| <u>Common annual lespedeza</u> <u>(quick cover species)</u> | <u>10</u> |
| <u>Fall - August 1 to October 1</u> | |
| <u>Redtop</u> | <u>3</u> |
| <u>Reed canarygrass</u> | <u>15</u> |
| <u>Alsike clover</u> | <u>6</u> |
| <u>31 Tall fescue</u> | <u>20</u> |
| <u>Common annual lespedeza</u> <u>(quick cover species)</u> | <u>10</u> |
| <u>Mixture for Areas to be Stocked With Woody Plants</u> | |
| <u>Spring or Fall Seeding</u> | |
| <u>Redtop</u> | <u>3</u> |
| <u>Perennial ryegrass</u> | <u>5</u> |
| <u>Birdsfoot trefoil (Appalow lespedeza)</u> | <u>10 (20)</u> |

Foxtail millet (quick cover spe-
cies)

5

If both Appalow lespedeza and birdsfoot trefoil are used, cut their
seeding rates in half.

1 2. The requirements in subparagraph 1. of this paragraph shall apply for each affected
2 area requiring revegetation treatment~~[and the types and amounts per acre of seed and trees to~~
3 ~~be planted]~~; and

4 (c) A detailed map~~[drawing]~~ of the road, well location, and proposed area of disturbance,
5 which shall be in sufficient detail to allow ready identification of surface features and which
6 shall satisfy the ~~[following]~~ requirements established in subparagraphs 1. through 4. of this
7 paragraph.~~[:]~~

8 1. a. The surface owner's tract~~[tract(s)]~~ shall be identified on the map~~[drawing]~~, with the name
9 of the surface owner if not listed on the legend.

10 b. ~~The[, which]~~ map~~[drawing]~~ shall ~~[also]~~ indicate the acreage to be disturbed.~~[:]~~

11 2. The map~~[drawing]~~ may be made over an enlarged section of the United States Geological
12 Survey (USGS) 1:24000 topographic map, or an equivalent format, and ~~shall~~~~[may]~~ be:

13 a. Enlarged to~~[approximately]~~ 1"=400'; and

14 b.~~[and be]~~ Submitted on a minimum of an eight and one-half (8 1/2) inch by fourteen (14)
15 inches sheet, using the symbols established~~[set out]~~ on Form ED-10.~~[:]~~

16 3. The map~~[drawing]~~ shall have a legend with the operator's and surface owner's names not
17 listed on the map, the scale of the map, the well name and number, and the lease name. Within
18 500 feet of the permitted wellsite boundary and 100 feet of the well site access road centerline,
19 the map shall show:

1 a. The location of all features listed on the legend of form ED-10;

2 b. All water bodies; and

3 c. If~~[When]~~ reasonably ascertainable, public utility infrastructure ~~[name and location of all~~
4 ~~streams, rivers, lakes, outstanding state resource waters pursuant to 401 KAR 10:031, or other~~
5 ~~public water bodies; proposed stream buffer zones; roads, cemeteries, houses, churches, schools~~
6 ~~and other public buildings; public properties such as, parks, Wildlife Management Areas, and na-~~
7 ~~ture preserves, and utility lines on the area to be affected, and within 1,000 feet of the proposed~~
8 ~~permit boundary. The map shall also delineate wetlands that may be affected by the proposed~~
9 ~~drilling operation]~~.

10 4. The map shall show the drainage pattern on and away from the area to be affected, includ-
11 ing the direction of flow, proposed constructed drainways, natural drainways to be used for
12 drainage, and the streams or tributaries to receive discharges from the proposed operation.

13 (3) A signature of the surface owner shall be obtained in instances of a complete severance of
14 the ownership of the oil and gas from the ownership of the surface to be disturbed. Signatory sec-
15 tions for the operator and surface owner shall be completed on Form ED-10 pursuant to para-
16 graphs (a) and (b) of this subsection.~~[in the following manner:]~~

17 (a) The name and title, if any, of the operator shall be indicated and his or her signature notarized.

18 1.a. The~~[- which]~~ signature shall be either that of an officer of the company or of a~~[some~~
19 ~~other]~~ person who holds a duly recorded power of attorney to execute documents.

20 b.~~[s]~~ A copy of the~~[which]~~ power of attorney shall be filed with the division.

21 2. If the prospective operator is an individual, the signatory shall be in the same name as the
22 applicant's. ~~If someone other than the applicant signs the form, the signatory shall hold a~~
23 ~~duly recorded power of attorney.~~[or a power of attorney to execute documents shall be~~~~

~~submitted to the division if the signatory is someone other than the applicant;~~

(b) The surface owner's name shall be indicated and his or her signature notarized if he or she approves of the operations and reclamation plan[~~proposal~~], together with any attachments submitted with it.

Section 3. Unsigned Reclamation Forms. If the owner of the surface of the severed minerals tract is unwilling or for some other reason has failed to submit[~~execute~~] Form ED-10, the operator shall file:

(1) A written petition for mediation; and

(2) With the items established in paragraphs (a) and (b) of this subsection.

~~(a) [; together with the following, at the time the application for permit is filed, in accordance with KRS 353.5901:~~

~~(1)~~ A copy of the certified mail receipt verifying that the operations and reclamation plan[~~proposal~~], the statement required in KRS 353.5901(4)(b)[~~353.5901(2)(b)~~], and the plat were mailed to and received by the surface owner or, if not received, the original or a copy of the unclaimed envelope. A copy of the operations and reclamation plan[~~proposal~~] and the attachments enclosed in the envelope mailed to the surface owner shall also be included.

(b)[(2)] If the surface owner cannot be reached at his last known address of record and certified mail is returned as undeliverable or unknown, the operator shall publish a notice of intended activity, together with a request for information on the whereabouts of the surface owner.

1. The[~~which~~] publication shall be made two (2) consecutive times in a local newspaper in the county where the proposed well is located and once in a newspaper of general circulation.

2. A copy of the notice of intended activity and request for surface owner information shall be included with the operator's[~~when the operator files his~~] application for permit and shall include:

- 1 a.[(a)] The name and address of the operator;
- 2 b.[(b)] A brief description of the intended activity as established[set-out] in the operations
- 3 and reclamation plan[proposal]; and
- 4 c.[(e)] ~~The surface owner must respond to this notice within fifteen (15) days of the se-~~
- 5 ~~cond publication in the newspaper; and~~
- 6 (d)] A statement of where interested persons may obtain additional information as to the op-
- 7 erator's intended activity.

8 **3. The surface owner shall respond to the notice established in this paragraph.**

9 Section 4. Mediation of Dispute. (1) The surface owner may file with the division a request

10 for mediation [at any time]after receiving[he has received] from the operator the proposed op-

11 erations and reclamation plan[proposal], but only after the operator has filed his request for me-

12 diation and not later than the time set forth in the Notice of Request for Mediation provided by

13 the department and mailed to the surface owner. The surface owner's request to participate in

14 mediation shall include the mediation fee, in accordance with KRS 353.5901(6), or a request for

15 waiver of the fee.

16 (2) Contents of a request for fee waiver. The request for waiver of the mediation fee shall in-

17 clude[set forth]:

18 (a) A brief statement of facts underlying the request for a determination that the individual is

19 financially unable to pay the mediation fee required by KRS 353.5901(6); and

20 (b)1. Documentation that the individual is receiving or has been deemed eligible to receive

21 public assistance; or

22 2. An affidavit, subject to penalties for perjury establishing:

23 a.[, setting forth] The applicant's individual income;

1 b.[i] The applicant's household income;

2 c.[i] Property owned;

3 d.[i] Outstanding obligations;

4 e.[i] The number and age of dependents; and

5 f.[i] ~~and~~ A copy of his or her most recent Kentucky and federal income tax returns.

6 (3) Waiver determination.

7 (a) Within thirty (30) days of filing of the petition, the mediator shall issue a determination
8 accepting or denying the request for fee waiver. If the fee waiver is denied, the applicant shall be
9 informed in writing and the applicant shall be given thirty (30) days from the mailing of the me-
10 diator's waiver denial to submit the mediation fee to the department, or the surface owner shall
11 be deemed to have failed to satisfy the statutory requirements applicable to mediation and a re-
12 port shall be issued pursuant to subsection (4) of this section.

13 (b) The mediator's waiver determination shall not be ~~is not~~ subject to appeal.

14 (c) In considering the request for fee waiver, the mediator shall consider the statement and af-
15 fidavit submitted by the surface owner and consult the Federal Poverty Guidelines in effect up-
16 on ~~at the time~~ the date the request is mailed.

17 (d) The mediator shall waive the mediation fee for any surface owner whose household in-
18 come is at or below 100 percent of the Federal Poverty Guidelines.

19 (e)1. The mediator shall ~~has the discretion to~~ waive the mediation fee for any surface owner
20 whose household income exceeds 100 percent of the Federal Poverty Guidelines if the mediator
21 determines that the surface owner has demonstrated financial inability to pay the fee.

22 2. It shall ~~It may~~ be presumed that the surface owner:

23 a. Has the financial ability to pay the mediation fee if that person is not receiving, or is not eligible

1 to receive, public assistance payments upon the date[~~at the time~~] the affidavit is submitted; or

2 b. Owns more than one (1) motor vehicle[~~353.5901(2)(b)~~].

3 (4)[~~(2)~~] If the surface owner does not file ~~the~~[his] mediation fee within the time and in the
4 manner required in the Notice of Request for Mediation, ~~the surface owner~~[he] shall be deemed
5 to have failed to satisfy the statutory requirements applicable to mediation.[~~;~~] The mediator shall
6 file a report noting the failure and recommend the acceptance of the operator's operations and
7 reclamation plan[~~proposal~~].

8 (5)(a)[~~(3)~~] The mediator shall not settle damage claims or make any determinations regarding
9 ~~damage claims~~[them] in ~~the~~[his] report.

10 (b)[~~However,~~] Information presented by the operator or surface owner as to costs incurred by
11 either party as a result of the projected drilling and the loss of minerals or surface damage may
12 be utilized by the mediator in recommending the placement of roads, pits, or other construction
13 and reclamation activities in a manner ~~that~~[which] has the least adverse surface impact.

14 (6)[~~(4)~~] If the operator withdraws his ~~or her~~ application for a permit to drill, deepen, or re-
15 open a well after receipt by the division of the surface owner's mediation fee, that fee shall be re-
16 funded to the surface owner.

17 Section 5. Construction, Reclamation, and Maintenance. (1) ~~Pre-construction planning shall~~
18 ~~be performed to design access roads, wellsite, and pits along existing topography to minimize~~
19 ~~erosion and identify locations for sediment control practices and devices in accordance with the~~
20 ~~operations and reclamation plan.~~

21 (2) Construction activities shall incorporate ~~BMPs~~[best management practices] for erosion
22 and sedimentation control on all disturbed areas.

23 (a) All cuts and fills shall have side slopes that are stable for the soil or fill material utilized.

1 (b) A wellsite[~~Wellsites~~] shall be constructed on a stable base.

2 (c) If[~~Where~~] practicable, pits shall be constructed in solid ground on the cut or highwall side
3 of the wellsites, and in accordance with 401 KAR 5:090, Section 9(5)(a).

4 1. A disturbed area[~~(a) All disturbed areas~~] shall be graded and stabilized so that soil ero-
5 sion, surface disturbances, and stream sedimentation is minimized utilizing best management
6 practices, in accordance with the approved operations and reclamation plan.

7 2. If[~~(b) Where~~] practicable, all topsoil present in the area to be disturbed shall be removed
8 and segregated for redistribution during reclamation.

9 3.[~~(e)~~] Temporary erosion control measures shall be implemented during construction of the
10 road to minimize sedimentation and erosion until permanent control measures including seeded
11 and mulched road ditches can be established.

12 ~~(3)[(1) The construction of the well site, including roads, pits, tanks, lines and other areas dis-~~
13 ~~turbed, shall be performed by the operator in accordance with the operations and reclamation pro-~~
14 ~~posal. All cuts and fills shall have side slopes that are stable for the soil or fill material involved.~~
15 ~~The vertical grades shall be as low as reasonably practicable and compatible with topography.~~

16 (2) If the well produces and the site is kept open for long-term use for well servicing and for
17 oil and gas removal, the operator shall:

18 (a) Maintain access roads in a manner as to:

19 1. Allow access by the operator without causing unreasonable settlement of the roadbed or
20 slides of the cut slopes; and

21 2.[, and] Provide that maintenance **shall be** in accordance with the operations and reclamation
22 plan[proposal];

23 (b)1. Establish drainage to adequately accept runoff from access roads, the well site, and other

1 areas in a manner that shall present~~[which prevents]~~ unreasonable interference with the surface
2 owner's property, roads, farming operations, and buildings; and

3 2.[-and] Establish ~~[that]~~ drainage in accordance with the operations and reclamation
4 plan~~[proposal]~~; and

5 (c)1. Repair access roads, the well site area, and pits damaged by events as floods, landslides,
6 or excessive settlement of the embankment as soon as practicable after the damage has occurred.

7 2.[-however,] The operator shall not be responsible for damage attributable to another party's use
8 of the access road not relating to the drilling, construction, or operation of the well by the operator.

9 Section 6. Site closure. (1) The department shall consider a wellsite closed after:

10 (a) All surface production facilities have been removed;

11 (b) The well has been plugged under direction of the department;~~[and]~~

12 (c) Written notice has been provided by the operator to the division that final reclamation and
13 site closure has been completed and the reclamation work pursuant to the operations and recla-
14 mation plan; and

15 (d) The cabinet has verified that the reclamation work complies with the operations and
16 reclamation plan in the approved permit package~~[has been approved by the cabinet]~~~~[the~~
17 ~~operator shall provide written notice to the division when final reclamation and plugging have~~
18 ~~been completed].~~

19 (2) The bond required in KRS 353.590(5) shall not be released until a division inspector has:

20 (a) Made an inspection of the well site one (1) year after the date of the letter of notification
21 from the operator of final reclamation and plugging; and

22 (b)~~[and has]~~ Filed a report to the director documenting that the following have occurred:

23 1.[-a)] All areas disturbed by the operator have been secured in a manner to prevent runoff,

1 sedimentation, or settlement of the roadway, sliding of cut slopes or any fill material;

2 ~~2.[(b)]~~ A diverse and effective permanent vegetative cover has been established; and

3 ~~3.[(e)]~~ Any matters relating to settlement, inadequate vegetative cover, or erosion have been
4 corrected.

5 Section 7. Transfer of Wells having Existing Reclamation Plans. (1) Prior to transferring a
6 well ~~[located on a severed minerals tract and]~~ for which an approved operations and reclama-
7 tion ~~plan~~[proposal] is on file with the division, the operator shall:

8 (a) Provide the successor operator a copy of the approved reclamation forms and attachments
9 on file with the division before signing ~~[Form ED-13,"]~~ Well Transfer Form ED-13~~["]~~;

10 (b) Advise the successor operator of any reclamation responsibility the transferring operator
11 had with regard to the well and related surface disturbance;

12 (c) Secure from the successor operator a letter indicating that the operator~~[he]~~ has received
13 from the transferring operator a copy of Form ED-10 and that he or she is willing to accept re-
14 sponsibility for the reclamation of the well site and other surface disturbances related to the op-
15 eration of the well;

16 (d) Submit to the division the completed~~[executed]~~ Form ED-13, applicable fee, and the let-
17 ter of the successor operator's agreement to accept responsibility for reclamation in the manner
18 established~~[set forth]~~ on Form ED-10; and

19 (e) Provide the surface owner of record with a copy of form ED-13 upon submission~~[when~~
20 ~~he submits it]~~ to the division.

21 (2) The division shall not transfer the well until the requirements of this section are satisfied
22 and shall advise the transferring and successor operators in writing upon transfer of~~[when]~~ the
23 well~~[is transferred]~~.

1 (3)(a) The transferee of a well shall assume all obligations in accordance with~~under~~ the
2 terms of the permit and this section upon transfer regardless of whether the transferor com-
3 menced the activity and regardless of whether the transferor failed to properly perform the trans-
4 feror's obligations in accordance with~~under~~ the permit and this chapter. The transfer of the
5 permit shall relieve the transferor of any future obligations under the terms of the permit or 805
6 KAR Chapter 1~~this chapter~~, but shall not relieve the transferor of any civil penalties that
7 arose from violations occurring prior to the transfer.

8 Section 8. (1) If a well is to be drilled and completed on federal lands, the director shall accept
9 a copy of a surface use reclamation agreement between the well operator and the federal agency
10 in lieu of the operations and reclamation plan~~proposal~~.

11 (2) If the operator elects to submit this agreement, it shall be submitted with~~at the time of~~
12 filing the application for permit to drill a well.

13 Section 9. (1) If a field inspection indicates there is noncompliance with the approved opera-
14 tions and reclamation plan~~proposal~~ or the requirements of Section 6 of this administrative regu-
15 lation, a written notice of violation describing the noncompliance shall be given to the operator,
16 together with a statement of the action required to correct the noncompliance.

17 (2) The written notice of violation shall allow the operator up to forty-five (45) days to correct
18 the violation.

19 (3) An operator may file for an extension of time to correct a violation. A request for an ex-
20 tension of time shall be submitted via~~by submitting~~ a letter to the director describing the
21 need for that extension.[;] If the director concludes that the reasons for the request are beyond
22 the operator's control~~request is reasonable~~ and that an extension of time will not violate the
23 requirements of this administrative regulation or applicable statutes, the director shall~~he may~~

1 grant the request for extension of time.

2 (4) The operator's bond ~~shall~~[may] be forfeited to the department's oil and gas well plugging fund,
3 pursuant to KRS ~~353.590(10)~~[353.590(7)], if ~~the operator~~[he] fails to make required corrections.

4 (5) An operator who, after hearing, is determined by the department to be in noncompliance with
5 any section of this administrative regulation, or who fails to abate any noncompliance of the approved
6 operations and reclamation plan, ~~shall be~~[is] subject to the penalties described in KRS 353.991.

7 Section 10. ~~Incorporation~~[Material Incorporated] by Reference. (1) The following material is
8 incorporated by reference:


9 (a) "Operations and Reclamation Plan", ED-10, April 2015~~[Form ED-10, "Plan to Prevent~~
10 ~~Erosion of and Sedimentation from a Well Site", (February 14, 1997 Edition), Division of Oil~~
11 ~~and Gas]; and~~

12 (b) Form ED-13, "Well Transfer", [~~April 16, 1990 edition~~], Division of Oil and Gas.

13 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
14 at the Division of Oil and Gas~~[These forms may be obtained from, examined, or copied at the~~
15 ~~Kentucky Department for Natural Resources], 1025 Capital Center Drive, [Suite 201, P.O. Box~~
16 ~~2244,] Frankfort, Kentucky 40602-2244, Monday through Friday, 8 a.m. to 4:30 p.m.~~

805 KAR 1:170 approved for filing.
Pages (1-17)

6/15/15
Date



Leonard K. Peters, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 1:170

Contact Person: Michael Mullins, Regulation Coordinator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the content of the operations and reclamation plan and provides necessary forms to complete the requirements of the administrative regulation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish reclamation requirements for well sites within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.5901(1) requires a well operator to submit to the Department for Natural Resources an operations and reclamation plan. This administrative regulation provides the necessary detail for an operations and reclamation plan.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 353.5901(1) requires a well operator to submit to the Department for Natural Resources an operations and reclamation plan and requires the owner or operator to complete the provisions of that plan. This administrative regulation assists in the administration of the statutes by providing necessary details for owners and operators to submit an operations and reclamation plan as well as complete reclamation on their well sites.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment is necessary to address several KRS 13A technical issues. The administrative regulation was also amended in order to introduce a list of approved seed mixes for reclamation purposes that includes KY 31 Tall Fescue.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to amend the administrative regulation to correct technical issues pursuant to KRS 13A. The amendment is also necessary to provide clarity to the appropriate seed mixes for reclamation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 353.5901(1) requires a well operator to submit to the Department for Natural Resources an operations and reclamation plan. An accepted seed mix is part of an operations and reclamation plan.

(d) How the amendment will assist in the effective administration of the statutes: KRS 353.5901(1) requires a well operator to submit to the Department for Natural Resources an operations and reclamation plan. This amendment will assist in the administration of the statutes by providing a defined list of approved seed mixes an operator can use to complete the required operations and reclamations plan.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact approximately 1,000 active operators within the Commonwealth. The proposal will also impact the surface and property owners which will be dependent on the number of wells permitted. There are approximately 900 permits issued each year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed above will be required provide will now be required to select a seed mix from the approved list introduced by the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost will vary depending on the seed mix selected.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will benefit by having a defined seed mix list to refer to when preparing the required operation and reclamation plan.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: These amendments will not increase the costs of the agency to implement.

(b) On a continuing basis: These amendments will not increase the costs of the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: A combination of general funds and restricted funds will be used.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be a need to increase fees or funding related to the proposed amendments.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendments to this administrative regulation do not increase or establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities are required to submit an operation and reclamation plan and will select a seed mix from the approved list.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Admin. Regulation No. 805 KAR 1:170

Contact Person: Michael Mullins, Regulation Coordinator

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Oil and Gas and Division of Water.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 353.5901.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This new administrative regulation will not generate any new revenue for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This new administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

DETAILED SUMMARY OF MATERIAL
INCORPORATED BY REFERENCE
805 KAR 1:170

This administrative regulation incorporates the following document:

I. Operations and Reclamation Plan”, ED-10, April 2015. KRS 353.5901 requires a well operator to submit to the Department for Natural Resources an operations and reclamation plan. This material is required to be submitted in order to receive a permit from the division. This material consists of 3 pages.